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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
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9 Carol Coghlan Carter, et al.,
10 Plaintiffs,
11 v.
12 Kevin Washburn, et al.,
13 Defendants.
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No. CV-15-01259-PHX-NVW
ORDER

15 Before the Court is Federal Defendants' Motion to Enter an Order Authorizing the
16 Release of Certain State Records (Doc. 152).

17 Plaintiffs do not oppose the Motion but request that Plaintiffs' counsel be included
18 as recipients of the records requested. (Doc. 154.) State Defendant does not oppose the
19 Motion to the extent that it seeks state court records directly from the Arizona State
20 Court(s) and the confidentiality of the information sought is protected as required by
21 federal and state laws. (Doc. 165.) State Defendant proposes that the Court include in its
22 Order permission for the Arizona Department of Child Safety to redact all Personally
23 Identifying Information and Protected Confidential Information, as those terms are
24 defined in the Protective Order (Doc. 133), of all non-parties named in the juvenile court
25 records prior to disclosure to Federal Defendants and/or Plaintiffs. (Doc. 165.) In reply,
26 Federal Defendants assert that the Protective Order (Doc. 133) already provides adequate
27 protection for the privacy of non-parties and does not define "Protected Confidential
28 Information." (Doc. 170.) The Federal Defendants also voice concern that permitting

1 redaction without imposing a time limit could prejudice Federal Defendants in class
2 certification briefing. (*Id.*)

3 The parties' stipulated Protective Order requires that all Protected Confidential
4 Documents and Personally Identifying Information be treated and maintained in a manner
5 that precludes access by any person or entity not entitled to access under the Order.
6 (Doc. 133 at 6.) It identifies nine categories of persons and entities that may obtain
7 access under specified conditions. It prohibits sharing Protected Confidential Documents
8 "and the information contained within" and Personally Identifying Information except
9 when certain conditions are met.

10 The Protective Order defines "Protected Parties" as including any named minor
11 child plaintiff in this action and their family, any minor child who may become a member
12 of a plaintiff class in this action and their family, and foster or adoptive families who are
13 or may become a member of a plaintiff class in this action. (*Id.* at 2.) It defines
14 "Personally Identifying Information" as names, addresses, and other information for
15 Protected Parties. (*Id.* at 3.) The Protective Order defines "Protected Confidential
16 Documents" to include, among other things, court records of juvenile court proceedings,
17 "including all such records concerning proceedings related to dependency, foster care
18 placement, termination of parental rights, guardianship, or preadoptive or adoptive
19 placements." (*Id.*) "Protected Confidential Documents" also includes documents
20 generated by or provided to the Arizona Department of Child Safety and information
21 gathered by the Arizona Department of Child Safety. (*Id.*)

22 But the term "Protected Confidential Documents" is limited to the records and
23 information of Protected Parties. Thus, the Protective Order adequately protects
24 Personally Identifying Information and Protected Confidential Documents with respect to
25 those encompassed by the term "Protected Parties," but it does not guarantee compliance
26 with federal and state privacy statutes with respect to those outside the definition of
27 "Protected Parties."
28

1 Therefore, to ensure compliance with federal and state privacy statutes for those
2 who are not parties to this action and may not be adequately protected by the Protective
3 Order, the Court will require the State Defendant to redact only Personally Identifying
4 Information of non-parties from the juvenile court records produced pursuant to this
5 Order, as the term “Personally Identifying Information” is defined by paragraph 5 of the
6 Protective Order but applied to non-parties.

7 IT IS THEREFORE ORDERED that, within 30 days of service of this Order by
8 the State Defendants, the Court Clerk of the Superior Court, Juvenile Court Center, in
9 Maricopa County, Arizona, and Court Clerk of the Superior Court, Juvenile Court Center,
10 in Yavapai County, Arizona, will produce copies of the following juvenile court records:
11 all motions, journal entries, orders, hearing transcripts, and other records filed with the
12 Superior Courts in connection with, as applicable, the termination, dependency, and
13 adoption proceedings of C.C., A.D., C.R., and L.G. (minor plaintiffs), and S., M., S., and
14 J. (putative minor class members). These individuals are identified by their court docket
15 number and name or initials in [SEALED] Exhibit A to this Order. Copies of the
16 requested documents should be directed to the attention of Gary L. Lento, Senior
17 Litigation Counsel, Arizona Attorney General’s Office, Child and Family Protection
18 Department, 1275 West Washington Street, Phoenix, Arizona 85007.

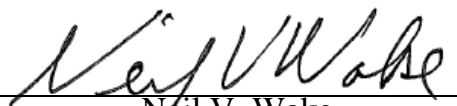
19 IT IS FURTHER ORDERED that the Arizona Department of Child Safety,
20 through its Counsel at the Arizona Attorney General’s Office, will redact only Personally
21 Identifying Information of non-parties from the juvenile court records produced pursuant
22 to this Order, as the term “Personally Identifying Information” is defined by paragraph 5
23 of the Protective Order (Doc. 133) but applied to non-parties.

24 IT IS FURTHER ORDERED that the Arizona Department of Child Safety,
25 through its Counsel at the Arizona Attorney General’s Office, shall provide copies of the
26 requested documents, after redaction as allowed herein, to all Parties to this matter within
27 14 calendar days of its receipt of the records from the Arizona state court or as otherwise
28 agreed by the parties or ordered by the Court.

1 IT IS FURTHER ORDERED that the production, use and disclosure of these
2 juvenile court records shall be subject to the terms and conditions of the Protective Order
3 (Doc. 133) entered in this action.

4 IT IS FURTHER ORDERED that the Arizona Department of Child Safety shall
5 provide a notice of this Order to the attorneys and guardians ad litem that represent C.C.,
6 A.D., C.R., L.G., S., M., S., J. in the juvenile court proceedings.

7 Dated this 6th day of April, 2016.

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11 Neil V. Wake
12 United States District Judge
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